c-spads-general -DJ

Attached then from Harold Weisberg, re more questions raised 2/3/80
by your and Doug Mitchell's deposition testimony, and by it

I e need to prepare a a rider of affidavits interrupted my reading of both transcripts. I have not yet finished reading yours. When I laid it aside last night I was troubled by many matters, of accuracy and of Catch-22 approaches.

You testified that except for a couple of appeals, PA and another or two, you have responded to all my appeals. This is news to me. If you have a list of those to which you have responded I'd appreciate a copy. You were to have provided something along this line. I have not received anything of this nature.

You testified that you are aware of [illegible] requests that have not been met. If you have responded to my appeals relating to 1/3/78 requests, as for photographs and the reports relating to those taken by an Army intelligence officer at the scene of the JFK assassination, your responses have not reached me.

One Catch-22 in your testimony that invalidates requests are invalid. My experience is that individualized requests are ignored. If the Department can have it both ways there is no fact. I recall virtually no compliance with the list of some (3) requests to which I testified in D.C. 75-1996 in 1975. The judge asked to be informed of compliance. I have yet to see a report to the judge however, of course, any such report with a least virtually complete non-compliance.

This, in turn, means that the Department's testimony to the Assembly can itself consisted of false premises and clearly deceived the Congress. This part of your deposition began with reference to that Congressional testimony. I regard this as more important, which is not intended to diminish the importance I attribute to compliance in general, because it is testimony that is part of the Department's campaign to alter the act. I also regard it as more important because of its significance in D.C. 75-1996, where waiver is a factor.

There are a number of filing requests that have been ignored except for the providing of duplicates of a small number of records provided to others, so long after they were provided to others that I already had them. This case also involves your testimony

of a year ago. I was confined then and could not be present to assist my counsel, but I wrote you about it at some length. I do not recall any response.

There was partial compliance with my Lyons and Patterson requests. My appeals, of well over a year, are without even acknowledgement. Related requests, as Gary Ort and Susan Wadsworth, are without compliance. Herron relates to both cases.

How about J.D. Martin and Harrell McCullough? These are what you call "players."

You testified that the FBI was providing its McCullough files. What is later provided is unprocessed copies of records already provided, unprocessed because of the House assassins committee and limited to the small area that interested it.

With regard to Martin the Mitchell deposition testimony is at best misleading. His affidavit is not accurate. If your counsel did not provide you me him with my affidavit in response, which I anticipate because your counsel is not interested in compliance, I'm sorry but I did dispute Mitchell and I was accurate in Martin compliance. (I disputed him on more than Martin and I strongly encourage you to inform yourself as soon as you can, given the direction of C.A. 78-1996 and further information I have been compelled to provide in it.)

There really is quite a bit more like this. As I told you before, I invite you again, you and/or your people are welcome to access to my records but I cannot transport them to you. Ms. Garrett has done relatively little work on my King records but she does have most of the appeals she was able to find in separate files. For quite some time now I have been captioning them, so your own filing should have been made easier for you.

Martin, McCullough and the others are largely 1977 matters and we are not in 1900.

I was reminded of still others in the course of preparing an affidavit in which I state can prove that Mitchell's affidavit is not accurate. One of these old requests, filed as a separate written request after the FBI said it was regard it as part of C.A. 78-1996, is my 1977 written request that was verbal in 1976, but what the FBI calls the nine "security" records.(In my individual request I was inadequate because I did

not know how the FBI files and because inadvertently a word was omitted.) The FBI promised it would provide those records once it complied with Judge Smith's order in the Leonard Lee case. It simply hasn't happened, although the FBI has confirmed in writing, in a quite recent sense, that it sent me the few pages of the Hoover O.C. file. You will find this FBI letter among the many attachments to the affidavit I sent to my counsel last night, if they did not provide you with a copy.

I dislike intensely having to inform a court that the government has misinformed it, and the more so in providing to do this the more last week I did this to the Honorable Gerhard A. Gesell about Government as the teacher of us all, regrettably the very worst. I do not want to know the need to inform Judge Green that your statement cannot be accepted because it is not accurate. I have just had to do this with Gesell's, if to a lesser degree than is possible.

This goes to matters I have raised with you before, like my attorney's concept of his ethical function, or other than that I have characterized as a rubber stamp, and about the FBI deciding your words. It did a number on Gesell, who did not know the extent of the total deception contained in Bonner's OPA, did the FBI well over my objections over my caution about its sending him.

I wonder now that I have stated rights of my attorneys if your counsel does not provide them and that I did tell you that Agent Gesell's on-file memorandum. It now turns out that for his own purposes the FBI has provided proof of the inaccuracy of its affidavit -- and that it did not do. It provided, if in incomprehensible form, what is needed and now in the affidavit Hood was ordered provided. The FBI has given affidavits. Almost certainly to cover its ass it also provided on 24 January, after court challenge, proof that its duplicitous statement was not by a month.

There are two ways to do this. I suppose either way may be there. Since I just filed [illegible] Hood's [illegible] I will [illegible] the FBI's records. If I am [illegible] in this, [illegible] the [illegible] and could

or for any reason don't, that does it out of the ordinary process and how are you less than a rubber stamp in my case?

Mitchell also volunteered on deposition that he faxed documents the nature of which I don't recall in what I had provided, whether appeals or the consultancy memo or both. He did not volunteer that he had made any inquiry and I do volunteer that he did not. He did not refer to the earlier absolute's memo based on the same material I used in the consultancy memo and it is accurate because I was compelled to check it and thereafter did file an entirely uncontested affidavit.

It turns out that Civil was merely "pinstriping" the Court and no business it has ignored what I did and it has not dared contest it. Perhaps it will yet have the need. Although I've not yet used it, which is a terrible way to have to work, I'm prepared to stand on it. In order to get it done in my form I was required to go out and buy what I could ill afford and have not used since, electronic and consumables; equipment. I disturbed them and as I could, my wife brave rebel and we sent it in, as I recall with a courtesy copy to you. There may well be typos in it, I may have used a wrong number, but the basic consultancy will not be questioned and given the fact that everyone knew the conditions under which I did it, the absence of any inquiry of any kind, even about the possible typos, says all that need be said.

Mitchell said he had notes, despite the subpoena, or at least I recall there was a subpoena, he had not brought them. He was asked to produce them. He hasn't. "Because the author of the consultancy will be some point in litigation and because the depositions have been filed, I would like a copy of those notes. And what you were to provide and asked you to note. His noting it means it won't be provided. He sat through the depositions and heard testimony to relevant records that had not been provided, since has not provided them yet files motions for summary judgment. (One I recall is that Kitty admitted the lot, not "several" records, but took data within my 4/11/05 request that had not been provided, although it has personally seen the batch and did provide the information until in response to a similar request in a DPI case.)

Civil asked him to have an all criminal-justice order prepared done based on what I'd written the FBI. They went to pay her. They haven't. Then Civil just ignored that memo until the judge, months later when Jim raised the question, directed that there be a response. Harmon Heckwith provided it, complete with differences and then phony copies of worksheets and underlying records and such falsity of a nature that can't be accidental. Civil, as it had often in the past, continued to send this to me at a time when ordinarily it would not have reached me until I was in Washington at the courier status call, a Monday. But by a fluke it reached me on Saturday, and although I was not able to respond to all of it what I was able to do was definitive. This required that I check what the assistant did. Now in not a single instance, and as I recall it his affidavit was some 60 pages long, did Heckwith allege that the citation of what was appealed was inaccurate. In not a single instance was the nature of the complaint herein or inaccurate in any way. So I have this much of a check on the underlying material in the consultancy case.

Aside from accidental error, and not a large quantity, I am not prepared to agree with Marshall's deposition testimony relating to what I provided. However, he did give this testimony, it is before the Court, and what can be done to eliminate what can be costly in attending it and eliminating any unfairness ought be done and I think promptly.

You will recall, I am sure, our discussions about the Attorney General's determination in the King case, while it was in court. I recall your telling me that you could find nothing in writing. Well, I have, thanks to having to try to keep the "P" honest and the accident of their system being easier to handle than my filing systems. It is not an internal record in my case but apparently because it takes reference to it without identifying it or as it was filed in with the correspondence from me. Civil obtained the copy and finally produced what it did at a time that precluded use during the depositions. So, in preparing to respond to a Rule 60(b) in the one I've just sent to Jim I referred to the FBI's version of my correspondence and found this in them. It relates to Jesse Hurl Jay's request and it states unequivocally that the AG had waived all privacy considerations, which is what I told you.

Again, what does this mean about the appeals function and your testimony, in court and on deposition, when after more than four years there remain improper withholding and you have provided affidavits affirming the rightness of them , yours and Mitchell's, and appear to have validated the other affidavits even if in fact you didn't?

Clearly enough the FBI had something bearing on this, a central matter in the case.

Meanwhile, you don't act on appeals and Department counsel refers to this question being addressed at some future time. Are the FBI, Department Civ counsel and you all part of the same agency?